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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,175	12/26/2001	William J. Drasler		6071

7590 03/29/2006  
William J. Drasler  
4100 Dynasty Drive  
Minnetonka, MN 55345

EXAMINER

THALER, MICHAEL H

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/036,175

Applicant(s)

DRASLER ET AL.

Examiner

Michael Thaler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 65-87 and 89-91 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 65,67-87 and 89-91 is/are allowed.
- 6) ☒ Claim(s) 66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

The disclosure is objected to because of the following informalities: In claim 65, line 5, "some of" should be inserted after the comma and in line 6 "and being" should be inserted after "componency" to make it clear that only some of the first strands have axial componency. Claims 66 and 67 should be amended in the same manner. Appropriate correction is required.

Claim 66 is rejected under 35 U.S.C. 103(a) as being unpatentable over Greenhalgh (6,192,944) in view of Schmitt (5,383,925). Greenhalgh, in figure 4C, discloses first strands 36 interwoven with first strands 40 and second strands 42 wherein any one of said first strands 40 is replaced by one of said second strands 42. The structural and the flexible strands have substantially continuous contact with neighboring strands such that the composite wall structure will not significantly leak blood serum (col. 3, lines 44-53, col. 5, line 42, noting the phrase "sealing ability" and col. 7, lines 61-66). The second strands inherently provide for anti-kinking characteristics for the vascular tubular member, are exposed an equal portion to both the inside and outside of the tubular member and make up an equal portion of the inner and outer surfaces of the tubular member as claimed. Greenhalgh fails to disclose the first strands 36 having an axial componency and the

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first strands 40 and the second strands 42 having substantial circumferential componency. However, Schmitt teaches that the strands of a vascular graft should be angled with respect to the longitudinal axis of the graft (col. 11, line 59 to col. 12, line 3) apparently in order to obtain the advantage of high strength for the graft. It would have been obvious to so angle the Greenhalgh strands so that it too would have this advantage. With this modification, all strands would have both substantial axial and circumferential componency.

Claims 65, 67-87 and 89-91 are allowed.

Applicant's arguments filed Jan. 6, 2006 have been fully considered but regarding claim 66, they are not persuasive. As to claim 66, an amount of circumferential componency for the second strands of Greenhalgh of 10 degrees, for example, would be "substantial", as broadly claimed (since it would be substantial enough to be seen by the human eye) and yet would be small enough so as to not destroy the functioning of the Greenhalgh device.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS

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of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

mht  
3/22/06



MICHAEL THALER  
PRIMARY EXAMINER  
ART UNIT 3731